

1 * * * AAFM Enforcement * * *

2 Sec. 1. 6 V.S.A. § 23 is added to read:

3 § 23. GOOD STANDING FOR AGENCY GRANTS

4 (a) As used in this section, “good standing” means an applicant for a grant
5 exclusively awarded by the Agency:

6 (1) does not have an active enforcement violation that has reached a
7 final order with the Secretary; and

8 (2) is in compliance with all terms of a current grant agreement or
9 contract with the Agency.

10 (b) This section shall not amend, alter, or otherwise modify the “good
11 standing” requirements established for grant programs in Chapter 215 of this
12 title.

13 (c) An applicant shall not be eligible for any grant exclusively awarded by
14 the Agency unless the applicant is in good standing with the Secretary on all
15 grant agreements, contract awards, and enforcement proceedings at the time of
16 the grant award.

17 (d) In the Secretary’s sole discretion, the Agency may waive the grant
18 prohibition in subsection (c) if the Secretary determines that:

19 (1) the applicant is working constructively with the Agency in good
20 faith to resolve all issues that prevent good standing, and the applicant agrees

1 in writing to take all necessary measures to comply with good standing
2 requirements within a described time period;

3 (2) all issues that prevent an applicant’s good standing are minor and do
4 not warrant ineligibility for the applicable grant; or

5 (3) the Secretary determines that waiving the good standing requirement
6 is in the interests of justice.

7 (e) The good standing requirement only applies to grants exclusively
8 awarded by the Agency. When the Agency is involved in administering other
9 grants, the Agency may raise an applicant’s lack of good standing for the
10 awarding entity’s consideration and review. The awarding entity may consider
11 the applicant’s lack of compliance when determining whether to award a grant.

12
13 * * * Water Quality * * *

14 Sec. 2. 6 V.S.A. § 4802(8) is amended to read:

15 (8) “Waste” or “agricultural waste” means material originating or
16 emanating from a farm or imported onto a farm that is determined by the
17 Secretary or the Secretary of Natural Resources to be harmful to the waters of
18 the State, including: sediments; minerals, including heavy metals; plant
19 nutrients; pesticides; organic wastes, including livestock waste, animal
20 mortalities, compost, feed, and crop debris; waste oils; pathogenic bacteria and

1 viruses; thermal pollution; silage runoff; untreated milk house waste; and any
2 other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

3 Sec. 3. 6 V.S.A. § 4815 is amended to read:

4 § 4815. WASTE STORAGE FACILITY

5 (a) No person shall construct a new waste storage facility or expand or
6 modify a waste storage facility in existence on July 1, 2006 unless the facility
7 meets the standard established for such facilities by the Natural Resources
8 Conservation Service of the U.S. Department of Agriculture or an equivalent
9 standard. If an equivalent design standard is used, the design and construction
10 shall be certified by the Secretary of Agriculture, Food and Markets or a
11 licensed professional engineer operating within the scope of ~~his or her~~ the
12 engineer’s expertise.

13 (b) The Secretary may require the owner or operator of a waste storage
14 facility in existence on July 1, 2006, to modify the facility to meet the standard
15 set forth in subsection (a) of this section if the facility poses a threat to human
16 health or the environment ~~as established by a violation of the State~~
17 ~~groundwater protection standards~~. If the Secretary determines that a facility
18 that meets the standard set forth in subsection (a) of this section poses a threat
19 to human health or the environment, the Secretary may require the owner or
20 operator of the facility to implement additional management measures.

1 (c) ~~The~~ If the Secretary suspects that a waste storage facility may be
2 contaminating groundwater, the Secretary shall pay the costs of any initial
3 groundwater monitoring ~~conducted~~ to determine ~~if~~ whether a facility poses a
4 threat to human health or the environment ~~shall be paid by the Secretary.~~
5 Within 21 days ~~of~~ after a determination under this subsection that a facility
6 poses a threat to human health or the environment because of apparent
7 violation of the Groundwater Protection Standards, the Secretary of
8 Agriculture, Food and Markets shall notify the Department of Health and the
9 Secretary of Natural Resources of the location of the facility and the name of
10 its owner or operator.

11 ~~(e)~~(d) As used in this section, “waste storage facility” means an
12 impoundment made for the purpose of storing agricultural waste by
13 constructing an embankment, excavating a pit or dugout, fabricating an
14 inground and aboveground structure, or any combination thereof.

15 Sec. 4. 6 V.S.A. § 4817 is amended to read:

16 § 4817. MANAGEMENT OF NON-SEWAGE WASTE

17 (a) As used in this section:

18 (1) “Non-sewage waste” means any waste other than sewage that may
19 contain organisms pathogenic to human beings but does not mean stormwater
20 runoff.

1 (2) “Sewage” means waste containing human fecal coliform and other
2 potential pathogenic organisms from sanitary waste and used water from any
3 building, including carriage water and shower and wash water. “Sewage” ~~shall~~
4 does not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

5 (b) The Secretary may require a person transporting or arranging for the
6 transport of non-sewage waste to a farm for deposit in a manure pit or for use
7 as an input in a methane digester to obtain approval from the Secretary prior to
8 transporting the non-sewage waste to the farm. The Secretary may require a
9 person to report to the Secretary at a designated time one or more of the
10 following:

11 (1) the composition of the material transported to the farm, including the
12 source of the material; and

13 (2) the volume of the material transported to a farm.

14 (c) After receipt of a report required under subsection (b) of this section,
15 the Secretary may prohibit the import of non-sewage waste onto a farm upon a
16 determination that the import of the material would violate the nutrient
17 management plan for the farm or otherwise present a threat to water quality.

18 Sec. 5. 6 V.S.A. § 4827 is amended to read:

19 § 4827. ~~NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS~~

20 ~~(a) A farm developing or implementing a nutrient management plan under~~
21 ~~chapter 215 of this title or federal regulations may apply to the Secretary of~~

1 ~~Agriculture, Food and Markets for financial assistance. The financial~~
2 ~~assistance shall be in the form of incentive grants. Annually, after consultation~~
3 ~~with the Natural Resources Conservation Service of the U.S. Department of~~
4 ~~Agriculture, natural resources conservation districts, the University of Vermont~~
5 ~~Extension Service and others, the Secretary shall determine the average cost of~~
6 ~~developing and implementing a nutrient management plan in Vermont. The~~
7 ~~dollar amount of an incentive grant awarded under this section shall be equal to~~
8 ~~the average cost of developing a nutrient management plan as determined by~~
9 ~~the Secretary or the cost of complying with the nutrient management planning~~
10 ~~requirements of chapter 215 of this title or federal regulations, whichever is~~
11 ~~less.~~

12 ~~(b) Application for a State assistance grant shall be made in a manner~~
13 ~~prescribed by the Secretary and shall include, at a minimum:~~

14 ~~(1) an estimated cost of developing and implementing a nutrient~~
15 ~~management plan for the applicant;~~

16 ~~(2) the amount of incentive grant requested; and~~

17 ~~(3) a schedule for development and implementation of the nutrient~~
18 ~~management plan.~~

19 ~~(c) The Secretary annually shall prepare a list of farms ranked, regardless~~
20 ~~of size, in priority order that have applied for an incentive grant under this~~
21 ~~section. The priority list shall be established according to factors that the~~

1 Secretary determines are relevant to protect the quality of waters of the State,
2 including:

3 (1) ~~the proximity of a farm to a water listed as impaired for agricultural~~
4 ~~runoff, pathogens, phosphorus, or sediment by the Agency of Natural~~
5 ~~Resources;~~

6 (2) ~~the proximity of a farm to an unimpaired water of the State;~~

7 (3) ~~the proximity of a drinking water well to land where a farm applies~~
8 ~~manure; and~~

9 (4) ~~the risk of discharge to waters of the State from the land application~~
10 ~~of manure by a farm.~~

11 (d) ~~Assistance in accordance with this section shall be provided from State~~
12 ~~funds appropriated to the Agency of Agriculture, Food and Markets for~~
13 ~~integrated crop management.~~

14 (e) ~~If the Secretary or the applicable U.S. Department of Agriculture~~
15 ~~conservation programs lack adequate funds necessary for the financial~~
16 ~~assistance required by subsection (a) of this section, the requirement to develop~~
17 ~~and implement a nutrient management plan under State statute or State~~
18 ~~regulation shall be suspended until adequate funding becomes available.~~

19 ~~Suspension of a State required nutrient management plan does not relieve an~~
20 ~~owner or operator of a farm permitted under section 4858 or 4851 of this title~~
21 ~~of the remaining requirements of a State permit, including discharge standards,~~

1 ~~groundwater protection, and land application of manure. This subsection does~~
2 ~~not apply to farms permitted under 10 V.S.A. § 1263.~~

3 ~~(f) The Secretary may enter into grants with natural resources conservation~~
4 ~~districts, the University of Vermont Extension Service, and other persons and~~
5 ~~organizations to aid in the implementation of the incentive grants program~~
6 ~~under subsection (a) of this section and to assist farmers in the development~~
7 ~~and implementation of nutrient management plans. [Repealed.]~~

8 Sec. 6. 6 V.S.A. § 4828 is amended to read:

9 § 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

10 (a) It is the purpose of this section to provide assistance to purchase or use
11 innovative equipment that will aid in the reduction of surface runoff of
12 agricultural wastes to State waters, improve water quality of State waters,
13 reduce odors from manure application, separate phosphorus from manure,
14 decrease greenhouse gas emissions, and reduce costs to farmers.

15 (b) The capital equipment assistance program is created in the Agency of
16 Agriculture, Food and Markets to provide State financial assistance for the
17 purchase of new or innovative equipment to ~~improve manure application,~~
18 ~~separation of phosphorus from manure, or nutrient management plan~~
19 ~~implementation~~ achieve the purposes of this section.

20 (c) Assistance under this section shall in each fiscal year be allocated
21 according to the following priorities and as further defined by the Secretary.

1 Priority shall be given to capital equipment to be used on multiple farms;
2 equipment to be used for phosphorus reduction, separation, or treatment; and
3 projects managed by nonprofit organizations that are located in descending
4 order within the boundaries of:

- 5 (1) the Lake Champlain Basin;
- 6 (2) the Lake Memphremagog Basin;
- 7 (3) the Connecticut River Basin; and
- 8 (4) the Hudson River Basin.

9 (d) An applicant for a State grant under this section to purchase or
10 implement phosphorus reduction, separation, or treatment technology or
11 equipment shall pay 10 percent of the total eligible project cost. The dollar
12 amount of a State grant to purchase or implement phosphorus reduction,
13 separation, or treatment technology or equipment shall be equal to the total
14 eligible project cost, less 10 percent of the total as paid by the applicant, and
15 shall not exceed \$300,000.00.

16 Sec. 7. 6 V.S.A. § 4832 is amended to read:

17 § 4832. FARM AGRONOMIC PRACTICES PROGRAM

18 ~~(a)~~ The Farm Agronomic Practices Assistance Program is created in the
19 Agency of Agriculture, Food and Markets to provide the farms of Vermont
20 with State financial assistance for the implementation, including through
21 education, training, or instruction, of soil-based practices that improve soil

1 quality and nutrient retention, increase crop production, minimize erosion
2 potential, and reduce agricultural waste discharges. ~~The following practices~~
3 ~~may be eligible for assistance to farms under the grant program:~~

4 ~~(1) conservation crop rotation;~~

5 ~~(2) cover cropping;~~

6 ~~(3) strip cropping;~~

7 ~~(4) cross-slope tillage;~~

8 ~~(5) zone or no tillage;~~

9 ~~(6) pre-sidedress nitrate tests;~~

10 ~~(7) annual maintenance of a nutrient management plan that is no longer~~
11 ~~receiving funding under a State or federal contract, provided the maximum~~
12 ~~assistance provided to a farmer under this subdivision shall be \$2,000.00 per~~
13 ~~year;~~

14 ~~(8) educational and instructional activities to inform the farmers and~~
15 ~~citizens of Vermont of:~~

16 ~~(A) the impact on Vermont waters of agricultural waste discharges;~~

17 ~~and~~

18 ~~(B) the federal and State requirements for controlling agricultural~~
19 ~~waste discharges;~~

20 ~~(9) implementing alternative manure application techniques; and~~

1 ~~(10) additional soil erosion reduction practices.~~ The Secretary shall
2 establish specific practices that meet the purposes of this section and shall
3 establish payment rates and payment limits for any assistance available to
4 farms under the grant program.

5 ~~(b) Funding available under section 4827 of this title for nutrient~~
6 ~~management planning may be used to fund practices under this section.~~

7 Sec. 8. 6 V.S.A. § 4852 is amended to read:

8 § 4852. RULES

9 The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 concerning
10 program administration, program enforcement, appeals and standards for waste
11 management and waste storage, setbacks or siting criteria for new construction
12 or expansion, groundwater contamination, odor, noise, traffic, insects, flies,
13 and other pests in order to implement this subchapter. The siting criteria
14 adopted by the Secretary by rule shall be consistent with the standards for the
15 quality of State waters and standards for ~~acceptable~~ required agricultural
16 practices pursuant to subchapter 2 of this chapter. The groundwater
17 contamination rules adopted by the Secretary shall include a process under
18 which the agency shall receive, investigate, and respond to a complaint that a
19 farm has contaminated the drinking water or groundwater of a property owner.